



# City of Albuquerque P.O. Box 1293, Albuquerque, NM 87103

# **Interoffice Memorandum**

January 23, 2004

Ref. No.: 04-02-132F

To: Chief Gilbert Gallegos, Albuquerque Police Department

> Deputy Chief Paul Chavez, Albuquerque Police Department Captain David Depies, Albuquerque Police Department

From: Debra Yoshimura, Internal Audit Officer, Office of Internal Audit

**Subject: FOLLOW-UP OF** SPECIAL **AUDIT** REPORT NO. 02-132,

> ALBUQUERQUE POLICE DEPARTMENT, TRAFFIC **CITATION**

**PROCEDURES** 

Internal Audit completed a follow-up of Special Audit Report No. 02-132, Albuquerque Police Department (APD), Traffic Citation Procedures. The report was issued on August 16, 2002. The purpose of our review was to determine whether the audit recommendations had been implemented. We determined the following:

#### RECOMMENDATION NO. 1

Three officers routinely scratched out the penalty assessment option when they issued traffic citations with the court appearance box checked. These officers earned Metro Court overtime hours and payments in excess of the average amount earned by officers. These three APD officers had combined overtime of 882 hours for total Metro Court overtime compensation of \$26,397 for calendar year 2001, and 350 hours for total Metro Court overtime compensation of \$10,907 from January through May 2002. There were some legitimate reasons for crossing out information on a traffic citation, such as to make it easier to identify the action to be taken by the violator. Also, some court appearances were mandatory. A few officers may have been using Metro Court appearance overtime as a way of supplementing their income. APD did have Procedural Orders that clearly stated that Officers were not suppose to make recommendations when issuing traffic citations. However, APD Management personnel stated that no one monitored the officers to ensure that traffic citation procedures were being followed.

# We recommended the following:

- APD should ensure that all Officers who issue traffic citations not influence the decision of the traffic offenders.
- APD should ensure that all Officers follow the APD procedural orders.
- APD should implement review procedures to identify indicators of potential attempts to influence traffic offenders.

#### **ACTION TAKEN**

The recommendation has been partially implemented. APD management states that changes have been made to the process for contesting traffic citations. Traffic violators are required to attend traffic arraignment hearings in which the presence of the officer is not necessary. APD management also states that officers are required to provide traffic violators with a copy of the Metropolitan Court Brochure when either the traffic arraignment or court appearance boxes are checked on the citation.

APD management stated that "the changes for contesting traffic citations should alleviate any appearance of the officer attempting to influence the driver's decision about handling the citation." A memorandum was sent to all officers reminding them to be attentive when issuing citations and to follow department protocol.

We tested Metro Court overtime for APD officers during fiscal years 2003 and 2004. We determined that Metro Court overtime has decreased in total when compared to our test work performed on overtime in 2001 and 2002.

Fiscal Year	<u>Amount</u>	<b>Hours</b>
FY2001	\$1,425,353	52,559
FY2002	1,353,057	48,926
FY2003	1,051,379	37,826
FY2004 (1)	471,961	17,202

(1) – July 1, 2003 thru December 31, 2003

However, some officers are still receiving Metro Court overtime for a significant number of hours.

Our sample consisted of officers that had overtime greater than or equal to \$10,000 in fiscal 2003, and greater than or equal to \$7,000 in fiscal year 2004 through December 31, 2003. Officer C is one of the three individuals mentioned above who had excessive overtime when the initial audit was performed. Our test work is summarized as follows:

	FY 2003		FY 2004	
	Metro Court Overtime		Metro Court Overtime	
Officer	Hours	Dollars	Hours	Dollars
A	677	\$25,997	267	\$10,234
В	754	23,814	381	12,026
С	599	18,931	327	10,335
D	409	15,686	-	-
Е	470	14,854	228	7,206
F	545	14,715	292	7,871
G	440	13,890	293	9,244
Н	413	13,557	-	-
I	428	13,511	-	-
J	424	13,385	225	7,095
K	401	12,682	268	8,470
L	441	11,438	278	7,205
M	374	10,914	-	-
N	313	10,270	-	-
О	318	10,035	-	-
P	317	10,019	-	-
Q	0	-	345	11,338
Total	7,323	\$233,698	2,904	\$91,024

# FOLLOW-UP RECOMMENDATION

APD should perform an analysis to determine if the new process for contesting traffic violations is having the desired result of reducing Metro Court overtime.

#### EXECUTIVE RESPONSE FROM APD

"The new process for contesting traffic violations has resulted in Metro Court overtime decreasing 5% from 2001 to 2002 and 22% from 2002 to 2003. The first half of fiscal year 2004 indicates court overtime will be reduced again overall for the fiscal year.

"APD will perform an analysis of the current top Metro Court overtime earners to determine the cause of their overtime earnings. We expect this will reveal that they are involved in criminal cases requiring their presence in Metro Court. This will be evaluated and corrective action will be taken if necessary. APD will continue to monitor its overtime expenditures to ensure they are kept to only that which is necessary."

### RECOMMENDATION NO. 2

The Metropolitan Court brochure (brochure) was not always distributed to offenders when a traffic citation was issued. We sent a survey to one hundred and ninety traffic offenders; thirty-two responded. Only fifteen of the thirty-two offenders (47 percent) stated in their response that they received a copy of the brochure. The APD officers patrol alone and therefore no one monitors them while they are in the field. Without a monitoring process, officers may do what is easiest rather than following proper procedures.

We recommended the following:

- APD should ensure that all officers responsible for issuing traffic citations provide offenders with a copy of the Metropolitan Court brochure.
- APD should monitor the officers' activities on a periodic basis to ensure that proper procedures are being followed.

#### **ACTION TAKEN**

The recommendation has been partially implemented. The brochure was revised on July 1, 2002, with the option of a traffic arraignment. According to APD management the brochure is distributed to traffic violators who receive a traffic citation with either the traffic arraignment or court appearance box checked.

The police substations deliver all traffic citation to the APD Records Management Section. We tested all 106 traffic citations delivered to APD Records Management on August 28, 2003, which consisted of the following:

- Fifty-eight were warnings.
- Thirty-nine were penalty assessments.
- Six were void.
- Three did not have any of the boxes checked.

Since none of the citations were for court appearances or traffic arraignments we were not able to perform test work to determine if the brochure is distributed.

APD management stated that supervisors conduct spot audits of the traffic citation issuing process. However, no documentation for the spots audits is maintained.

#### FOLLOW-UP RECOMMENDATION

APD should monitor the officers' activities on a periodic basis to ensure that proper procedures are being followed. APD should maintain documentation of the spot audits of the traffic citation issuing process.

#### EXECUTIVE RESPONSE FROM APD

"APD sergeants will be required to audit officer's citations for completeness and accuracy and utilize these audits in the employee performance appraisal. Any deviance from the Standard Operating Procedures (S.O.P.) will be addressed by the supervisor with the officer and corrective action will be taken if necessary. APD will ensure that the Metropolitan Court Brochure is available at each Police Substation. Sergeants will ensure that officers have the brochures and that they are distributed to violators wishing to appear in Metro Court."

# **RECOMMENDATION NO. 3**

The Traffic Safety Section of APD did not track citation books (books) issued by officer. Instead the books were randomly handed out without a record of which officer each specific book was given to. Since citation books were not tracked by officer, there was no way to determine if all issued citations have been turned in at the end of each shift. APD records management personnel indicated that APD was not in compliance with section 66-8-134 of the New Mexico State statutes. According to APD management it was not clear what was expected by the State to be in compliance with this section. Section 66-8-134 Illegal cancellation; audit of citation records, stated "Every record of uniform traffic citations required in the Motor Vehicle Code shall be audited monthly by the appropriate fiscal officer of the governmental agency to which the traffic-enforcement agency is responsible.... Each fiscal officer shall publish an annual summary of all traffic violations notices issued by the traffic-enforcement agency."

# We recommended the following:

- APD should ensure that every traffic citation is accounted for.
- APD should maintain logs with a record of each traffic citation book issued to an officer. The citations should be reviewed as they are turned in to ensure that none are missing and that any voided citations are properly explained.
- The Legal department should get clarification on what the State expects as far as New Mexico State Statute 66-8-134 is concerned.

# **ACTION TAKEN**

The recommendation to APD has not been implemented. APD is currently using the redesigned Uniform Traffic Citation with the barcode in the lower right hand corner. However, APD has not purchased any scanners, or software to read the bar codes and account for all traffic citations. Furthermore, APD is still not in compliance with section 66-8-134 of the New Mexico State Statutes. We visited three APD substations and determined the following:

- Each substation uses a different format to log the issuance of citation books.
- When citations are issued they are not always distributed in numerical order.
- Officers do not always sign their name/initials to indicate that they have actually received the citation books.
- One of the substations ran out of log forms, and instead used blank paper. This particular substation also had difficulty locating the completed logs. The logs turned up on an administrative person's desk instead of being locked in the cabinet with the citations.

The recommendation to the Legal Department has been fully implemented. Legal determined in order to comply with New 66-8-134; APD needs to maintain reliable records of traffic citations that can be audited monthly by its fiscal manager.

#### FOLLOW-UP RECOMMENDATION

APD should purchase the scanners and software that are required to ensure a proper accounting of all traffic citations.

APD should create a uniform traffic citation log for all substations to use. In addition, APD should ensure that the traffic citation logs are filled out completely each time a citation book is issued.

APD should comply with Section 66-8-134 of the New Mexico State Statutes.

#### EXECUTIVE RESPONSE FROM APD

"To comply with Section 66-8-134 NMSA 1978, APD will purchase the scanners and software that are required to ensure a proper accounting of all traffic citations. To ensure proper accounting until the equipment is purchased, APD has distributed the APD Citation Log (PD form #5000) to each Police Substation and requires that supervisors utilize the Log when issuing citation books to officers. The logs are kept in the locked cabinet with the citations. Area Commanders will deliver the logs to the Fiscal Manager by the 5<sup>th</sup> of each month. The Fiscal Manager will audit the logs and associated records of citations monthly. The Fiscal Manager will publish an annual summary of all traffic violation notices issued by APD."

#### RECOMMENDATION NO. 4

Traffic citations were not always filled out completely by the issuing APD Officer. Also, some of the traffic citations were difficult to read. Traffic citations might have not been filled out

completely due to the officers being in a hurry, and rushing through the process. This might have also been the reason some of the citations were difficult to read.

We recommended that APD ensure that all officers responsible for issuing citations list all information in a legible manner on the face of the citation. This could be done by having the officer who reviews citations at the end of each shift return any incomplete citations to the issuing officer. The issuing officer would be required to fill in any blank areas on the citation before the reviewing officer would accept it.

We also recommended that APD consider developing a system where the officer can input the citation to a universal database that can then be printed, and given directly to the traffic offender on the scene.

#### **ACTION TAKEN**

The recommendation has been partially implemented. All rejected citations are returned to the Deputy Chief of the Field Services Bureau weekly. They are then forwarded to the commander of the officer for review and correction. In some instances the officer may be required to go thru retraining in order to learn how to correctly fill out a traffic citation. The Deputy Chief requires a response explaining the reason for the error, and the corrective action taken.

We selected all citations, delivered to APD records management on August 28, 2003, to review for completeness. Six of the 106 citations were illegible. One citation was not signed by the violator.

# FOLLOW-UP RECOMMENDATION

APD should ensure that all officers responsible for issuing citations list all information in a legible manner on the face of the citation. APD should ensure that the violator signs all issued citations.

#### EXECUTIVE RESPONSE FROM APD

"APD will adhere to S.O.P. section 3-42 and hold officers accountable for errors or omissions on citations. Supervisors will continue to monitor officer's citations and conduct retraining, if necessary. APD will evaluate the pilot program for Electronic Citations and, if successful, begin utilizing the program throughout APD. This system will automatically fill out the citation with the violator's information from the drivers license. This will dramatically increase accuracy while reducing the time needed to issue a citation."

### RECOMMENDATION NO. 5

APD officers were not always consistent when issuing traffic citations for certain violations. APD officers appeared to have a high degree of flexibility when issuing a warning versus a court appearance or penalty assessment traffic citation. If there is a lack of consistency among APD officers when issuing traffic citations, it could give the appearance that some violators are not treated fairly. We recommended that APD manage officer discretion to avoid the appearance of unequal treatment.

#### **ACTION TAKEN**

The recommendation has been partially implemented. APD management wants all police officers to have a limited amount of discretion to effectively do their jobs. APD management states that the primary purpose of police officers conducting traffic enforcement is to change poor and improper driving behavior.

We looked at a sample of 106 traffic citations issued during the last two weeks of August 2003 and determined that thirty-two citations were for violation of statute 66-7-372 – No Seat Belts. However, the amount of the penalty assessment varied for this violation:

- Nineteen were for \$69
- Six were for \$84
- Five were for \$68
- Two were for \$58

A memo was sent from the Chief's office, on August 28, 2003, reminding all sworn personnel that the correct penalty assessment for seat belt violations is \$69.00.

#### FOLLOW-UP RECOMMENDATION

APD should continue to manage officer discretion to avoid the appearance of unequal treatment.

#### EXECUTIVE RESPONSE FROM APD

"APD will continue to avoid the appearance of unequal treatment by providing a schedule of the current penalty assessments to each officer. Additionally APD will require sergeants to provide training in each shift's briefing regarding the correct and incorrect use of officer discretion when issuing citations."

#### RECOMMENDATION NO. 6

APD officers were not always timely about turning in traffic citations at the end of each shift. Furthermore, after an Officer issues a court appearance traffic citation there is a critical time period of 48 hours for the citation to be turned in to Metro Court. If the citation is not turned in within the critical time period there is a chance that it might be dismissed by a Metro Court judge. We tested three weeks in to determine the number of citations submitted to Metro Court after the 48 hour critical time period. The results were as follows:

- April 4-10, 2002 1,719 citations of 3,006 citations submitted were late (57 percent).
- February 13-19, 2002 942 citations of 1,964 citations submitted were late (48 percent).
- January 30 February 5, 2002 793 citations of 1,807 citations submitted were late (44 percent).

APD records management provided us with reports received from Metro Court management that showed that as the year had progressed, the number of citations turned in after 48 hours had increased: (1) From January to February by 4 percent, (2) February to April by 9 percent, (3) Overall the increase was 13 percent. Citations were turned in up to 46 days after they were issued.

We recommended the following:

- APD should develop procedures to ensure that Officers turn in all issued traffic citations, especially for court appearances, after each shift to ensure that Metro Court receives them within the 48-hour critical time period.
- APD should review the citations for timeliness to determine and address the cause of citations being turned in late.

#### **ACTION TAKEN**

This recommendation has been fully implemented. According to APD management, Sergeants have been told to review all traffic citations more closely with a concentration on timeliness. APD also issued a special order to all personnel outlining the proper procedures for the routing process for all traffic citations.

We reviewed traffic citation statistics sent from Metro Court personnel to APD records management. The data consisted of traffic citations turned in for the months of April thru August 2003, and the first week in September 2003. The information showed that the average number of citations submitted to Metro Court after 48 hours for this period was 0.93 percent. The number of citations submitted late has decreased significantly compared to a year ago.

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# EXECUTIVE RESPONSE FROM APD

"APD will continue to monitor late citations to maintain the current low level of late citations turned in. Electronic citations would eliminate late citations altogether."

Mayor Chavez xc: Jay Czar, CAO Internal Audit Committee **City Councilors** Gail Reese, CFO

Nick Bakas, Chief Public Safety Officer

Sandy Doyle, Director, DFAS